

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Aiyanna Milligan	Team: Squad #6	CCRB Case #: 201701739	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/07/2017 2:11 PM	Location of Incident: § 87(2)(b)	Precinct: 84	18 Mo. SOL 9/7/2018	EO SOL 9/7/2018	
Date/Time CV Reported Tue, 03/07/2017 3:31 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 03/07/2017 3:31 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Schwaner	17838	929152	TB DT30

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Patrick Groves	30944	953931	TB DT30

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Schwaner	Off. Language: Police Officer Joseph Schwaner made remarks to § 87(2)(b) based upon ethnicity.	§ 87(2)(b)

Case Summary

On March 7, 2017, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board (CCRB) via telephone.

On March 7, 2017, at approximately 2:11 PM, § 87(2)(b) approached PO Joseph Schwaner and PO Patrick Groves of Transit District 30, who stood near his parked vehicles as he returned to § 87(2)(b), his residence and workplace. PO Groves explained to § 87(2)(b) that his vehicles were in violation of a parking sign. § 87(2)(b) disputed this, and eventually PO Schwaner informed § 87(2)(b) that he would be receiving summonses. § 87(2)(b) walked away but remained nearby. § 87(2)(b) returned to his vehicles. PO Groves had already written a summons for one vehicle. As PO Schwaner wrote a summons for the other, § 87(2)(b) told the officers that the summonses would be dismissed anyway. PO Schwaner allegedly replied, “Well, I’m going to tow them, and you, out of the country. You’re not supposed to be here” (**Allegation A**). § 87(2)(b) subsequently called 911 (Board Review 01). PO Groves and PO Schwaner left the scene.

§ 87(2)(b) was issued two traffic summonses, one for each of his vehicles, for not parking in a legal spot (Board Review 02). § 87(2)(b) was not arrested.

Video evidence of the incident exists, however it has no sound, it does not capture the entirety of the incident, and there is no other misconduct captured in it. The aforementioned video evidence is embedded in IA 18. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) was the only complainant/victim in this case. Mediation was offered to him, but he opted for an investigation § 87(2)(b)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- A Notice of Claim request was submitted on April 5, 2017 in regards to the incident. As of April 11, 2017, there were negative results for any notice of claim filed by § 87(2)(b) (Board Review 04).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b)
- PO Joseph Schwaner has been a member of the NYPD for fifteen years and has had eighteen other allegations pleaded against him in nine cases. None of PO Schwaner’s other CCRB allegations were substantiated. § 87(2)(g)

Findings and Recommendations

Allegation A - Offensive Language: Police Officer Joseph Schwaner made remarks to § 87(2)(b) based upon ethnicity.

It is undisputed that PO Schwaner made a remark regarding § 87(2)(b)’s vehicles being towed.

§ 87(2)(b) provided two statements to the CCRB. § 87(2)(g)
§ 87(2)(b) testified that he came upon PO Schwaner and PO Groves,

near his parked vehicles as he returned to his residence/workplace from lunch. PO Groves explained to § 87(2)(b) that his vehicles were in violation of the parking sign. § 87(2)(b) disagreed and pointed to a sign that allowed him to park in the area. PO Schwaner disagreed, as he felt another sign, which said there was no parking anytime, applied to § 87(2)(b)'s vehicles. Eventually, PO Schwaner informed § 87(2)(b) that they would write him summonses and § 87(2)(b) could explain it to the judge. § 87(2)(b) walked away to avoid an argument, but remained nearby. PO Schwaner followed § 87(2)(b) and they continued to dispute whether there was a violation. When § 87(2)(b) returned to his vehicle, PO Schwaner had already written a summons for one of his vehicles. § 87(2)(b) told the officers, that the summonses would be dismissed anyway. PO Schwaner replied, "Well, I'm going to tow them, and you, out of the country. You're not supposed to be here." § 87(2)(b) did not reply, walked away, and called 911. PO Groves and PO Schwaner left shortly thereafter (Board Review 05).

PO Schwaner testified that as he began to write a summons for either a No Parking or No Standing violation, § 87(2)(b) suddenly appeared. As PO Groves wrote a summons for one of § 87(2)(b)'s vehicles, § 87(2)(b) yelled that he knew people, he would call the 84th Precinct, and he would not pay the tickets. PO Schwaner replied, "Okay, if you don't pay the tickets, you can be towed," and walked away. PO Schwaner did not recall whether there was any dispute about the interpretation of the parking sign that applied to § 87(2)(b)'s vehicles; he only knew that § 87(2)(b) mentioned "something about the parking" and his reply was to take care of it at Traffic Court. After PO Schwaner wrote the summons for § 87(2)(b)'s vehicle, he and PO Groves left. Aside from the aforementioned remark, PO Schwaner did not make any other remarks regarding § 87(2)(b)'s vehicles being towed. PO Schwaner did not make any statement that expressed that § 87(2)(b) is not supposed to be in this country, or does not belong in this country. PO Schwaner did not say anything to the effect of, "Well I'm going to tow them, and you, out of the country. You're not supposed to be here," (Board Review 07).

§ 87(2)(g)
As PO Groves wrote out his summons, PO Schwaner spoke to § 87(2)(b) approximately ten to fifteen feet away. PO Groves did not know, and did not later learn, what their conversation was about, aside from overhearing PO Schwaner inform § 87(2)(b) that if he did not address the summonses, then his cars could eventually be towed. After issuing the summonses, they returned to their command. PO Groves did not hear PO Schwaner mention anything about removing § 87(2)(b) from the country. PO Groves did not hear PO Schwaner say anything to the effect of, "Well, I'm going to tow them, and you, out of the country. You're not supposed to be here," (Board Review 06).

There were no witnesses to the incident or any video footage that shows misconduct.

§ 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted].

Squad: **6**

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date